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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,544	05/18/2006	Reinhard Keller	MFA-20202/04	5662

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EXAMINER
GAMI, TEJAL

ART UNIT	PAPER NUMBER
2121	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/575,544	KELLER, REINHARD
	Examiner	**Art Unit**	
	TEJAL J. GAMI	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 February 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This office action is responsive to an AMENDMENT entered February 10, 2009

for application 10/575544.

Status of Claims

2.   Claims 1-16 were rejected in the last Office Action dated November 12, 2008.

Claims 1-16 are presented for examination in this office action.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Harding

(U.S. Publication Number: 2003/0114288).

As to independent claim 1, Harding discloses a control (e.g., controller 16) for a

machine for the manufacture of paper padding (e.g., cushioning conversion machine for

moving the paper material through the machine to create the dunnage material) (see

Paragraph [0037] and [0042]), wherein the machine comprises a drive motor (e.g., feed

motor 24) having a cutting device (e.g., cutting assembly 26) and a shaping device to form a piece of padding (e.g., forming assembly 20) from a paper web and to cut it off (e.g., cutting the dunnage product) in a desired length (e.g., desired length) (see Paragraph [0046] and [0038]), comprising an input means (e.g., microprocessor 48; keypad) to input a desired length of padding (e.g., particular cut length) (see Paragraph [0046]);

a control unit (e.g., controller 16) (see Paragraph [0037]) having a memory to control the drive motor in response to the input means (e.g., processor 48 uses information to control the gear assembly 22 to store in non-volatile memory 230) (see Paragraph [0081]),wherein an activation of the input means (e.g., processor 48) starts the drive motor and a deactivation of the input means triggers a cutting procedure and stops the drive motor (e.g., activation/deactivation signals to the feed motor) (see Paragraph [0081]) so that the time period of the activation of the input means corresponds to the length of padding produced (e.g., length of time that equated to inches of dunnage material) (see Paragraph [0046]), and wherein the control unit (e.g., control) automatically stores the length of padding produced in the memory on deactivation of the input means (e.g., processor 48) and makes it available for a further call up (e.g., activation/deactivation signals to store in the non-volatile memory the total length of pad produced) (see Paragraph [0081]).

As to independent claim 14, Harding discloses a machine for the manufacture of paper padding (e.g., pads produced by machine) (see Paragraph [0071]), comprising:

a drive motor (e.g., feed motor 24) having a cutting device (e.g., cutting assembly 26) and a shaping device (e.g., forming assembly 20) to shape a piece of padding from a paper web and to cut it off (e.g., cutting the dunnage product) in a desired length (e.g., desired length) (see Paragraph [0046] and [0038]); and

a control (e.g., controller 16) (see Paragraph [0037]) comprising:

an input means (e.g., microprocessor 48; keypad) to input a desired length of padding (e.g., particular cut length) (see Paragraph [0046]);

a control unit (e.g., controller 16) (see Paragraph [0037]) having a memory to control the drive motor in response to the input means (e.g., processor 48 uses information to control the gear assembly 22 to store in non-volatile memory 230) (see Paragraph [0081]), wherein an activation of the input means (e.g., processor 48) starts the drive motor and a deactivation of the input means triggers a cutting procedure and stops the drive motor (e.g., activation/deactivation signals to the feed motor) (see Paragraph [0081]) so that the time period of the activation of the input means corresponds to the length of padding produced (e.g., length of time that equated to inches of dunnage material) (see Paragraph [0046]), and wherein the control unit (e.g., control) automatically stores the length of padding produced in the memory on deactivation of the input means (e.g., processor 48) and makes it available for a further call up (e.g., activation/deactivation signals to store in the non-volatile memory the total length of pad produced) (see Paragraph [0081]).

As to dependent claim 2, Harding teaches a control in accordance with claim 1, wherein the stored length of padding can be called up by an actuation, in particular a brief actuation, of the input means (e.g., microprocessor 48) or of a further input means from the memory (e.g., mode selection switch 52) (see Paragraph [0045]), with the manufacture of at least one further piece of padding being triggered automatically in the called up length on the call up of the length of padding (see Paragraph [0071] and [0086]).

As to dependent claim 3, Harding teaches a control in accordance with claim 1, wherein the input means is an individual switch (e.g., foot switch) or push button (e.g., keypad buttons) (see Paragraph [0046] and [0053]); and

wherein an input pad (e.g., keypad) is provided in addition to the switch or push button (e.g., foot switch) with which desired lengths of padding can be input into the control and/or can be called up out of the control, with the manufacture of at least one piece of padding being triggered automatically in the called up length on the call up of a length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 4, Harding teaches a control in accordance with claim 3, wherein it permits a directly sequential call up of a respective length of padding with the switch or the push button (e.g., foot switch), on the one hand, and with the input pad (e.g., keypad), on the other hand, without a further input means of the control having to be actuated between these two call ups (see Paragraph [0046] and [0053]).

As to dependent claim 5, Harding teaches a control in accordance with claim 3, wherein at least one additional switch or push button (e.g., foot switch; keypad buttons)

is provided on whose actuation a standard length of padding stored in the memory is called up, with the manufacture of at least one piece of padding being triggered automatically in the called up length on the call up of the length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 6, Harding teaches a control in accordance with claim 1, wherein a display device is provided (e.g., view in real-time) (see Paragraph [0071] and [0013]); and

wherein, when the control is switched on for the first time, a standard length of padding stored in the memory is displayed which can be called up by a further input means (e.g., display 54) (see Paragraph [0077]), with the manufacture of at least one piece of padding being triggered automatically in the called up length on the call up of the length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 7, Harding teaches a control in accordance with claim 1, wherein it has a mode (e.g., mode selection switch 52) (see Paragraph [0045]) in which a combination of the desired number and of the desired length of the pieces of padding to be produced can be at least one of stored and called up (e.g., required number and lengths of pads as determined by a look-up table) (see Paragraph [0086]).

As to dependent claim 8, Harding teaches a control in accordance with claim 1, wherein an input means (e.g., microprocessor; keypad) is provided with which a continuous manufacture of pieces of padding in the stored length of padding can be activated (e.g., length of each pad) (see Paragraph [0046]).

As to dependent claim 9, Harding teaches a control in accordance with claim 3, wherein the individual switch or push button (e.g., foot switch), the input pad (e.g., keypad) and an input means (e.g., microprocessor 48) for the activation of a continuous manufacture (see Paragraph [0046] and [0053]) are input means of equal priority for the call up of a length of padding, with the manufacture of at least one piece of padding being triggered automatically in the desired length on the call up of the length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 10, Harding teaches a control in accordance with claim 1, wherein a selection switch (e.g., mode selection switch 52) is provided with which a plurality of memory locations can be selected in the memory in which a produced length of padding can be stored automatically, with the associated stored length of padding being produced in dependence on the position of the selection switch (e.g., mode selection switch 52), in particular on the activation of the input means (see Paragraph [0045]).

As to dependent claim 11, Harding teaches a control in accordance with claim 10, wherein a further input means (e.g., foot switch; keypad buttons) is respectively associated with the plurality of memory locations to call up a length of padding stored at the respective memory location (see Paragraph [0046] and [0053]), with the manufacture of at least one piece of padding being automatically triggered in the called up length on the call up of the length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 12, Harding teaches a control in accordance with claim 1, wherein a sensor is connected to it which detects the forthcoming end of the paper web (e.g., lack of paper; presence or absence of dunnage) (see Paragraph [0090] and [0047]); and

wherein the control generates a signal in response to the sensor which in particular interrupts a further operation of the machine at least temporarily (e.g., machine become inactive) (see Paragraph [0090] and [0047]).

As to dependent claim 13, Harding teaches a control in accordance with claim 1, wherein it has a connector for an electromagnetic coupling of an auxiliary unit (e.g., electronic dispensing system), with the control controlling the drive motor differently in dependence on whether the electromagnetic coupling is connected (e.g., mode selection switch 52), with the control preferably automatically recognizing whether an electromagnetic coupling is connected (e.g., electronic dispensing system) (see Paragraph [0045] and [0047]).

As to dependent claim 15, Harding teaches a machine in accordance with claim 14, wherein the control is made as a separate operating part which is connected to the machine via a cable, wherein a holder is in particular provided at the machine for the releasable installation of the control (e.g., cable connection) (see Paragraph [0107]).

As to dependent claim 16, Harding teaches a machine in accordance with claim 14, wherein a bus system is provided for the transmission of the control signals from the control to the machine (e.g., input bus 50) (see Paragraph [0053] and [0061]).

Response to Arguments

5.   Applicant's arguments filed February 10, 2009 have been fully considered. The

arguments are not persuasive and do not overcome the original art rejection. The

following are the Examiner's observations in regard thereto.

<u>Applicant Argues:</u>

More specifically, paragraph [0081] admittedly teaches that the length of the control pad is stored in
nonvolatile memory but there is absolutely nothing in paragraph [0081] of Harding, or anywhere else in
Harding for that matter, which teaches or suggests that that padding length may be subsequently called
up or retrieved. Instead, it appears from Harding that Harding merely maintains a running total of the
amount of padding produced.

<u>Examiner Responds:</u>

Examiner is not persuaded.   The claims and only the claims form the metes and

bounds of the invention. What is the purpose of storing in memory if not to make

available for further call up? The claims do not specify actually calling up, but rather

simply claim to "make available" for further call up. Nonetheless, see Paragraph [0071]

and [0077] for prior art disclosure of length of pads produced by the machine used from

memory. Under such considerations, the claims as written are anticipated by the prior

art.

<u>Applicant Argues:</u>

Similarly, claim 1 in the instant application clearly requires that activation of the input means 18 starts the
drive motor and deactivation of the input means stops the drive motor and initiates the cutting procedure.
The Patent Examiner has suggested that paragraph [0046] of Harding discloses this, but it clearly does
not.
Rather, as is clear from paragraph [0046] of Harding, the buttons on the keypad are programmed to
correspond to known lengths, such as 12 inches. Consequently, in Harding, the momentary activation
and deactivation of a key on a keyboard will generate a padding of a predetermined length, such as 12
inches. Unlike the instant invention, as is clearly defined in claim 1, the release of the input means or
keypad button of Harding neither terminates the drive motor nor does it initiate the cutting operation.
These features, furthermore, are clearly set forth in claim 1 in the instant application.

Examiner Responds:

Examiner is not persuaded. The claims and only the claims form the metes and bounds
of the invention. Nowhere in the claims is the word "release" used. However, see prior
art Paragraph [0058] for disclosure to signal the feed motor to continually feed paper
through the machine while the foot switch is depressed, and upon the foot switch being
released will discontinue the signal to the feed motor causing the feed motor to stop.
Also see Paragraph [0081] where the prior art clearly teaches activation/deactivation
signals to the feed motor. Under such considerations, the prior art anticipates the
claims as written.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in
this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37
CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within
TWO MONTHS of the mailing date of this final action and the advisory action is not
mailed until after the end of the THREE-MONTH shortened statutory period, then the
shortened statutory period will expire on the date the advisory action is mailed, and any
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejal J. Gami whose telephone number is (571) 270-1035. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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